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FEDERAL ELECTION  
COMMISSION

2010 MAR -8 AM 10:22 BEFORE THE FEDERAL ELECTION COMMISSION

651A Matter of

MUR 6237

Stouffer for Congress and

Larry Rohrbach, as Treasurer

Missouri State Senator Bill Stouffer

State of Missouri

Aaron Baker

Heidi Kolkmeier

Reece & Nichols Gaslight Real Estate

CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY  
SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6237 as a low-rated matter.

In this matter, the complainant, Chris Brockway, alleges five violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), and the Commission's regulations, by Missouri State Senator Bill Stouffer, Stouffer for Congress and Larry Rohrbach, in his official capacity as treasurer (collectively "SPC"), and the Friends of Bill Stouffer ("FOBS") (Senator's Stouffer's state campaign committee). The complainant also identifies Aaron Baker and Heidi Kolkmeier (two of Senator Stouffer's state senate staff employees) and Reece & Nichols Gaslight Real Estate as respondents.

1           The complainant initially states that Senator Stouffer used funds from FOBS to  
2 pay for polling expenses regarding a potential run for federal office. In response, the  
3 SFC indicates that Senator "Stouffer was contemplating running for a state-wide  
4 Missouri office at some point in the future or for Congress in 2010." Thus, the state-level  
5 "aspects of the consulting and polling were paid for by FOBS" and, because SFC had not  
6 been created at the time of the poll, "Stouffer personally paid Axiom (a political  
7 consulting firm) for the federal portion of the consulting and polling."<sup>1</sup> In response, SFC  
8 admits that Senator Stouffer's payment should have been reported by SFC as an in-kind  
9 contribution. A review of SFC's disclosure reports reveals that the committee's October  
10 2009 Quarterly Report was amended, on December 29, 2009, to reflect the in-kind  
11 contribution.<sup>2</sup>

12           The second allegation in the complaint concerns a purchase made by FOBS of a  
13 Garmin GPS device for Senator Stouffer's use in order to assist his federal committee,  
14 SFC. In its response, the SFC directly refutes this allegation, indicating that "FOBS has  
15 never made any expenditures in support of Stouffer's campaign for Congress."  
16 Furthermore, the response indicates that Senator Stouffer's district is made up of over  
17 eight counties and that the candidate "is frequently required to travel throughout the  
18 entire state in his role" on various committees. Thus, SFC claims that the GPS device  
19 "was purchased by FOBS to help Senator Stouffer find the various meeting places he has  
20 to travel to as a State Senator."

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<sup>1</sup> A copy of the personal check from Senator Stouffer to Axiom was provided with the response.

<sup>2</sup> The filing, on December 29, 2009, of the amended October 2009 Quarterly Report coincides with the date the SFC filed its response to the complaint in this matter.

1           Another allegation made in the complaint provides that FOBS paid for Senator  
2   Stouffer's registration for the Republican Women's Conference that Senator Stouffer  
3   attended. The response submitted by SFC indicates that FOBS paid for the registration,  
4   which the committee claims is a permissible expenditure under Missouri regulations, but  
5   Senator Stouffer did not attend the conference and the "expenditure was not related to  
6   any campaign for federal elective office."

7           The complaint also alleges that two of Senator Stouffer's state senate staffers,  
8   Aaron Baker and Heidi Kolkmeier, are state employees working for Stouffer's federal  
9   campaign "during normal working hours." The SFC concedes that Ms. Baker and  
10   Ms. Kolkmeier are "supporting Stouffer in his bid to become a U.S. Congressman," but  
11   asserts that both staffers have worked on the federal campaign as volunteers on their own  
12   time.<sup>3</sup>

13           Finally, the complaint alleges that Heidi Kolkmeier is scheduling his fundraising  
14   appointments from a phone registered to Reece & Nichols Gaslight Real Estate.  
15   Specifically, the complaint states that the phone calls are "an in-kind contribution from a  
16   corporation, and it is illegal." According to the SFC, the phone number cited in the  
17   complaint actually has belonged to Ms. Kolkmeier for five years, and not the real estate  
18   agency as alleged by the complainant.

19           In light of the remedial action taken by Stouffer for Congress with respect to  
20   reporting an in-kind contribution from the candidate, coupled with the speculative nature  
21   of the remaining allegations, and in furtherance of the Commission's priorities and

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<sup>3</sup> An advisory opinion by the Missouri State Ethics Commission, attached to the response of the State of Missouri, "opines that political activity is allowed by legislative staffers if it is not performed on 'state time'."

resources relative to other matters pending on the Enforcement docket, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).


**RECOMMENDATIONS**

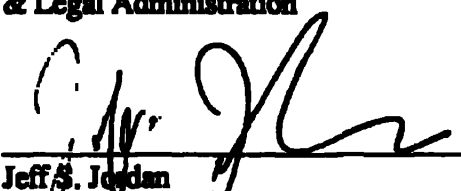
The Office of General Counsel recommends that the Commission dismiss MUR 6237, close the file, and approve the appropriate letters.

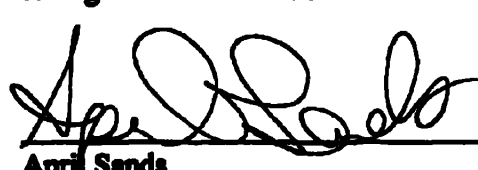
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3/5/10  
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